IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 563 OF 2005

Ashok Narayan Bonagir & ors. ... Appellants (Ori.Plaintiffs)

V/s

Ravindra Vithal Bonagir & ors. ... Respondents

Mr. M.R. Katikar for the appellants.

Mr. N.P. Deshpande for the respondents.

CORAM: P.V. KAKADE, J.

DATED: 17TH AUGUST, 2005

P.C.:

1. This appeal is preferred by the appellants against the judgment and order passed by the Addl. District Judge, Pune, dated 13.7.2004 dismissing the appeal and confirming the judgment and order passed by the Civil Judge, Jr.Divn., Pune, dated 16.3.2000 dismissing the plaintiffs' suit for possession of the suit property from the defendants.

2. I have heard the learned counsel for both parties. Perused the record.

3. The plaintiffs filed the suit against the defendants on the ground that defendants were occupying three rooms totally admeasuring 300 sq.ft. in the entire property located at Kasba Peth, Pune, as their licencee in gratis since long as they were related to each other and when the plaintiffs wanted the suit premises from the defendants, they denied to vacate the same and hence the suit came to be filed.

Defendants contested the suit on various grounds inter-alia submitting that they were co-owners of the suit property and, therefore, there was no question of occupation by virtue of any licence on their part, and sought dismissal of the suit.

4. The learned Trial Judge adjudicated the dispute on merits and came to the conclusion that the plaintiffs were apparently owner of the suit property and they failed to prove that defendants were their licencee at gratis and licence was properly terminated and hence the suit came to be dismissed.

5. The appeal was carried to the District Judge, Pune. The learned Addl. District Judge, Pune, after hearing

both parties, confirmed the findings recorded by the Trial Court and dismissed the appeal. Hence the present appeal.

6. At the outset, it may be noted that there is absolutely no substantial question of law involved in this appeal. The learned counsel for the appellants submtited that the question of law involved was, whether the defendants were licencee or not. It is needless to mention that, it cannot be the question of law at all but it is a question of fact which is seen to be properly adjudicated by both the Courts below who had recorded concurrent findings of fact to the effect that the plaintiffs had failed to prove that defendants were licencee in the suit premises. The factual aspects of the entire evidence is properly appreciated by both the Courts below and, therefore, there cannot be any doubt whatsoever that the plaintiffs failed to prove their case in the alleged aspects.

7. In the result, I hold that there is no merit in the appeal and, therefore, stands dismissed with no order as to costs. Consequently, Civil Application No. 992 of 2005 also stands dismissed with no order as to costs.

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